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EXAMINER
CALLAHAN, PAUL E

ART UNIT	PAPER NUMBER
2137	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/800,488	TAYLOR, JESSE
	Examiner	Art Unit	
	PAUL CALLAHAN	2137	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *15 March 2004*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-60* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-10, 12-49, 52-60* is/are rejected.

7) ☒ Claim(s) *11 and 51* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *15 March 2004* is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3-15-04*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-60 are pending in the instant application and have been examined.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claims 12, 21-40, and 52 are rejected under 35 U.S.C. 112, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention.

Claims 12, 32, and 52 each recite the limitation "decrypting the secured data

received from the mobile computing device." However, no encryption step is recited in

their base claims or any intermediate claim. There is insufficient antecedent basis for

this limitation in the claims.

Independent claims 21, 24, and 30 each recite a preamble indicating that the

claims are directed towards an apparatus. Yet none of the claims recite a limitation

directed towards a component of an apparatus. Therefore the claims are indefinite as

per 35 USC Sec. 112 second paragraph. Claims 22, 23, 25-29, and 31-40 are

dependent on claims 21, 24, and 30, and are rejected on the same basis.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1, 4, 10, 17, 18, 20, 21, 24, 26, 30, 37, 38, 40, 41, 44, 46, 50, 57, 58, and

60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durga et al., US

6,813,498 and Helle, US 6,662,023.

        As for claims 1 and 4, Durga discloses a method for securing data in a mobile

computing device (abstract), comprising the steps of: transmitting a periodic signal

from the mobile computing device to a remote server (figure 4, element 435, col. 9

lines 1-40); receiving a retrieval request at the mobile computing device from the

remote server (figure 4, element 430, col. 5 lines 5-27, col. 9 lines 1-40) in response to

the retrieval request, securing an original resident data in a secure file of the original

resident data (col. 9 lines 30-40), and after creating the secure file, deleting the original

resident data from the mobile computing device (col. 5 lines 26-45, col. 9 lines 30-40).

Durga does not disclose a step wherein the retrieval request includes a data

identification for identifying original resident data at the mobile computing device.

However, Helle does teach a step where a recovery message carries an identification

of original resident data to be recovered (col. 6 lines 5-55: Table 1: Info Command).

Therefore it would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate this feature into the system of Durga. It would have

been obvious to do so since this would facilitate the data backup process disclosed by

Durga (col. 5 lines 40-43).

As for claim 10, Durga discloses a method for securing data in a mobile

computing device and recovering the data through a server (abstract), comprising the

steps of: receiving a periodic signal from the mobile computing device (figure 4,

element 435, col. 9 lines 1-40), the periodic signal having an identification information

for identifying the mobile computing device (col. 5 lines 45-50), transmitting a retrieval

request from the server to the mobile computing device (figure 4: element 430, col. 5

lines 5-45), and receiving a secured file containing the original resident data secured

from the mobile computing device (col. 5 lines 35-45). Durga fails to explicitly teach the

step of comparing the identification information with a subscriber data in the server.

However, such a step is inherent to the system of Durga since such an identifier is

generated by the sever and then provided to the mobile device for use in reestablishing

communication with the server over a recovery channel by resending the identifier back

to the server. Durga fails to disclose the step wherein the retrieval request includes a

data identification for identifying original resident data at the mobile computing device.

However, Helle does teach a step where a recovery message carries an identification

of original resident data to be recovered (col. 6 lines 5-55:Table 1: Info Command).

Therefore it would have been obvious to one of ordinary skill in the art at the time the

invention was made to have incorporated this feature into the system of Durga. It would

have been desirable to do so since this would increase the security of the data back up

step of Durga where data returned to the server can be authenticated via the use of an

identifier.

As for claim 17, Durga teaches the method of claim 10, further comprising the

step of: if the subscriber data indicates retrieval of location data for the mobile

computing device, receiving a location data from a service provider (col. 5 lines 55-67).

As for claim 18, The combination of Durga and Helle teach the method of claim

17. Durga discloses that the service provider is a telephone service provider (col. 1

lines 55-62), but not that the location data is an origination telephone number through

which the mobile computing device communicates with the server. However, Helle

does teach this feature (col. 6 lines 5-55:Table 1: Info command). Therefore, it would

have been obvious to one of ordinary skill in the art at the time the invention was made

to incorporate this feature into the system of Durga. It would have been obvious to do

so since this would allow for the central server to determine which local node the

mobile device last utilized and speed the recovery of a lost or stolen mobile device.

As for claim 20, The combination of Durga and Helle disclose the method of

claim 10. Helle discloses the further steps of: receiving a retrieval indicator from a user;

and storing the retrieval indicator in the subscriber data (col. 5 line 55 through col. 6

line 56: calls are only allowed to numbers specified by subscribers in parameters).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate this feature into the system of Durga. It would have

been obvious to do so since this would allow for the central server to determine which

method of retrieval will be used to recover a lost or stolen mobile device.

As for claims 21, 24, 41, and 44, these claims recite the apparatus carrying out

the method steps of claims 1 and 4, and the computer program product that directs a

processor to carry out the method steps of claims 1 and 4. They recite substantially the

same limitations as claims 1 and 4 and are rejected on the same basis.

As for claims 26 and 46, Durga discloses a computing device as per claim 24

and a computer program product as per claim 44 where an acknowledgement signal is

sent to the remote server (col. 5 lines 44-50).

As for claims 30 and 50, the claims are directed towards the apparatus that

carries out the method of claim 10, and the computer program product that directs a

processor to carry out the method steps of claim 10. Claims 30 and 50 recite

substantially the same limitations as claim 10 and are rejected on the same basis as

that claim.

As for claims 37 and 57, these the claims are directed towards the apparatus that carries out the method of claim 17, and the computer program product that directs a processor to carry out the method steps of claim 17. Claims 37 and 57 recite substantially the same limitations as claim 17 and are rejected on the same basis as that claim.

As for claims 38 and 58, these the claims are directed towards the apparatus that carries out the method of claim 18, and the computer program product that directs a processor to carry out the method steps of claim 18. Claims 38 and 58 recite substantially the same limitations as claim 18 and are rejected on the same basis as that claim.

As for claims 40, and 60, these the claims are directed towards the apparatus that carries out the method of claim 20, and the computer program product that directs a processor to carry out the method steps of claim 20. Claims 40 and 60 recite substantially the same limitations as claim 20 and are rejected on the same basis as that claim.

6.   Claims 2, 6, 22, and 42 are rejected under 35 U.S.C. 103(a) as being obvious over Durga and Helle as applied to claims 1, 4, 21, and 41 supra, and further in view of Isikoff, US 5,748,084.

As for claims 2 and 6, the combination of Durga and Helle disclose the method of claims 1 and 4, but not further comprising the step of compressing the secure file. However, Isikoff discloses this feature, where data from a lost or stolen mobile computing device is "backed up" by transmission to a central server in compressed form (col. 7 lines 60-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate this feature into the method of Durga and Helle. It would have been desirable to do so since this would allow for decrease bandwidth use in the data backup step of Durga (col. 5 lines 40-45).

As for claims 22 and 42 these claims are directed towards the apparatus that carries out the method of claim 2, and the computer-program product that instructs a processor to carry out the method steps of claim 2. Claims 22 and 42 recite substantially the same limitations as claim 2 and are rejected on the same basis.

7.   Claims 3, 5, 7, 12-14, 23, 25, 27, 32-34, 43, 45, 47, and 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durga and Helle as applied to claim 4, 10, 24, 30, 44, and 50 supra, and further in view of Nobel et al., US 7,302,571.

As for claim 3, the combination of Durga and Helle teach the limitations of claims 1, 21, and 41, but not wherein the step of securing an original resident data comprises the steps of receiving an encryption key from a remote server, and encrypting the original resident data using the encryption key. However, Nobel teaches these steps

(col. 12 line 57 through col. 13 line 7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate this feature into the system of Durga and Helle. It would have been obvious to do so since this would increase the security of data backup as taught by Durga (col. 5 lines 40-44) since the key used to encrypt the data are not resident on the stolen or misplaced mobile computing device.

As for claims 23 and 43, these the claims are directed towards the apparatus that carries out the method of claim 3, and the computer program product that directs a processor to carry out the method steps of claim 3. Claims 23 and 43 recite substantially the same limitations as claim 3 and are rejected on the same basis as that claim.

As for claim 5, the combination of Durga and Helle fail to teach the method of claim 4 further comprising the step of dividing the original resident data into a plurality of segments of a predetermined size. However, Nobel et al. discloses this feature where data stored in a lost or stolen mobile computing device is encrypted under a block encryption algorithm prior to archiving (col. 11 lines 7-15). Such a block cipher algorithm involves data segmentation. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated this feature into the system of Durga and Helle. It would have been desirable to do so since

this step would allow for the use of common encryption routines in the data encryption

step disclosed by Durga (col. 5 lines 35-40).

As for claim 7, the combination of Durga and Helle fail to explicitly teach the

method of claim 4 further comprising the step of establishing a secured connection

between the mobile computing device and the remote server. However, Nobel

discloses such a feature (col. 10 lines 37-43) Therefore, it would have been obvious to

one of ordinary skill in the art the time the invention was made to incorporate this

feature into the system of Durga and Helle. It would be desirable to do so since this

would increase the security of the data backup/recovery step disclosed by Durga (col.

5 lines 40-44).

As for claim 12, the combination of Durga and Helle fails to explicitly teach the

step of decrypting the data received from the computing device. However, Nobel

teaches a mobile communicating device that sends an encrypted message to a remote

server whereupon it is decrypted (col. 12 line 57 through col. 13 line 7). Therefore, it

would have been obvious to one of ordinary skill in the art at the time the invention was

made to incorporate this feature into the system of Durga and Helle. it would have

been desirable to do so since this would increase the security of data backup in the

system of Durga (col. 5 line 40-45) where such communication takes place over the

Internet (col. 3 lines 15-20).

As for claim 13, the combination of Durga and Helle teach the method of claim 10, but not wherein the step of receiving the secured file further comprises the steps of: receiving a plurality of segments of secured data from the mobile computing device; and assembling the plurality of segments of secured data into the secured file. However, Nobel teaches this feature. In Nobel, data is encrypted by the mobile computing device using a block cipher, therefore implying segmentation. The data is decrypted at the server which necessitates reassembly of the decrypted blocks. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated this feature into the system of Durga and Helle. It would have been desirable to do so since this step would allow for the use of common encryption routines in the data back up step disclosed by Durga (col. 5 lines 40-44).

As for claim 14, the combination of Durga and Helle fail to teach the method of claim 10 further comprising the step of establishing a secured connection between the mobile computing device and the server. However, Nobel teaches the use of a secure channel for communications between a mobile computing device and a server (col. 10 lines 40-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated this feature into the system of Durga and Helle. It would have been desirable to do so since this step would increase the security of data backup as taught by Durga (col. 5 line 40-44).

As for claims 25 and 45, the claims directed towards the apparatus that carries out the method of claim 5, and the computer program product that directs a processor to undertake the method steps of claim 5. Claims 25 and 45 recite substantially the same limitations as claim 5 and are rejected on the same basis as that claim.

As for claims 27 and 47, the claims directed towards the apparatus that carries out the method of claim 7, and the computer program product that directs a processor to undertake the method steps of claim 7. Claims 27 and 47 recite substantially the same limitations as claim 7 and are rejected on the same basis as that claim.

As for claims 32 and 52, these the claims are directed towards the apparatus that carries out the method of claim 12, and the computer program product that directs a processor to carry out the method steps of claim 12. Claims 32 and 52 recite substantially the same limitations as claim 12 and are rejected on the same basis as that claim.

As for claims 33 and 53, these the claims are directed towards the apparatus that carries out the method of claim 13, and the computer program product that directs a processor to carry out the method steps of claim 13. Claims 33 and 53 recite substantially the same limitations as claim 13 and are rejected on the same basis as that claim.

As for claims 34 and 54, these the claims are directed towards the apparatus that carries out the method of claim 14, and the computer program product that directs a processor to carry out the method steps of claim 14. Claims 34 and 54 recite substantially the same limitations as claim 14 and are rejected on the same basis as that claim.

8.   Claims 8, 9, 15, 16, 28, 29, 35, 36, 48, 49, 55, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durga and Helle as applied to claims 4, 10, 24, 30, 44, and 50 supra, and further in view of Kefford et al., US 6,880,079.

As for claims 8 and 15, the combination of Durga and Helle teach the method of claims 4 and 10, but not further comprising the step of establishing an FTP connection between the mobile computing device and the remote server. However, Kefford teaches a step wherein a mobile computing device communicates with a remote server via an FTP transfer (col. 5 lines 60-67). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate this feature into the system of Durga and Helle. It would have been desirable to do so since this would allow for a common file transmission format to be utilized in the data backup step taught by Durga (col. 5 line 40).

As for claims 9 and 16, the combination of Durga and Helle teach the method of claims 4 and 10, but not further comprising the step of establishing an HTTP

connection between the mobile computing device and the remote server. However, Kefford teaches a step where a mobile computing device communicates with a remote server via HTTP. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate this feature into the system of Durga and Helle. It would have been desirable to do so since this would allow for a common format to be utilized in the data backup step taught by Durga (col. 5 line 40) where communication takes place over the Internet (col. 3 lines 15-20).

As for claims 28 and 48, the claims are directed towards the apparatus that carries out the method of claim 8, and the computer program product that directs a processor to carry out the method steps of claim 8. Claims 28 and 48 recite substantially the same limitations as claim 8 and are rejected on the same basis as that claim.

As for claims 29 and 49, the claims are directed towards the apparatus that carries out the method of claim 9, and the computer program product that directs a processor to carry out the method steps of claim 9. Claims 29 and 49 recite substantially the same limitations as claim 9 and are rejected on the same basis as that claim.

As for claims 35 and 55, these the claims are directed towards the apparatus that carries out the method of claim 15, and the computer program product that directs

a processor to carry out the method steps of claim 15. Claims 35 and 55 recite

substantially the same limitations as claim 15 and are rejected on the same basis as

that claim.

As for claims 36 and 56, these the claims are directed towards the apparatus

that carries out the method of claim 16, and the computer program product that directs

a processor to carry out the method steps of claim 16. Claims 36 and 56 recite

substantially the same limitations as claim 16 and are rejected on the same basis as

that claim.

9.   Claims 19, 39, and 59 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Dorga and Helle as applied to claim 17, 37, and 57 supra, and further

in view of, Goertzel et al., US 6,308,273.

As for claim19, the combination of Dorga and Helle disclose the method of claim

17, but not wherein the service provider is an Internet service provider and the location

data is a network address through which the mobile computing device communicates

with the server. However, Goertzel discloses these features (col. 5 lines 30-45).

Therefore it would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate this feature into the system of Durga. It would have

been obvious to do so since this would allow for the central server to determine via

trace route techniques the location where the mobile device last utilized and speed the

recovery of a lost or stolen mobile device.

As for claims 39 and 59, these the claims are directed towards the apparatus

that carries out the method of claim 19, and the computer program product that directs

a processor to carry out the method steps of claim 19. Claims 39 and 59 recite

substantially the same limitations as claim 19 and are rejected on the same basis as

that claim.

Allowable Subject Matter

10.   Claims 11 and 51 are objected to as being dependent upon a rejected base

claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

Conclusion

11.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Paul E. Callahan whose telephone number is (571) 272-

3869. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's

supervisor, Emmanuel Moise, can be reached on (571) 272-3865. The fax phone

number for the organization where this application or proceeding is assigned is: (571)

273-8300.

Information regarding the status of an application may be obtained from the

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

/Paul Callahan/
February 27, 2008

/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2137